R E M A R K S

Claims 1 – 7 and 15 – 17 are in the application. Claims 1, 15, and 16 are currently amended; claims 2 – 7 and 17 were previously presented; and claims 8 – 14 have been canceled. Claims 1, 15, and 16 are the independent claims herein.

No new matter has been added by this preliminary amendment. The claim amendments submitted to better clarify that which is claimed as the invention by Applicant.

Reconsideration and further examination are respectfully requested.

Claim Rejections – 35 USC § 102

Claims 1 – 7 and 15 – 17 were rejected under 35 U.S.C. 102(b) as being anticipated by Diacakis et al. U.S. Publication No. 2002/0116336, hereinafter "Diacakis". This rejection is traversed.

Regarding the rejection of claims 1 – 7 and 15 – 17 under 35 U.S.C. 102(b) as being anticipated by Diacakis, Applicant reminds the Office that anticipation requires that each and every one of the claimed elements be disclosed in the cited and relied upon reference as configured in the claims. Applicant respectfully submits that the cited and relied upon Diacakis does not anticipate claims 1 – 7 and 15 – 17.

Applicant notes that claim 1 relates to a method including interfacing an identity oriented context application that represents a context of an identity based on an availability or state of the identity with a device oriented context application that represents the context of the identity based on an availability or state of a device associated with the identity, where the identity is a person or a group of persons; determining, by the device oriented context application, a device oriented context for a specific device associated with the identity, wherein the device oriented context provides an availability status of the specific device; determining, by the identity oriented context application, an identity oriented context for the identity, wherein the identity

oriented context provides an availability status of the identity; determining an availability rule associated with the identity, the availability rule governing when or how the identity is available, when or how the identity can be contacted by other identities, how or when the identity can be contacted based on the identity oriented context of the identity, and how or when the identity can be contacted based on the device oriented context of the identity; determining, for a specific time, a true availability of the identity based, at least in part, on the determined device oriented context for the specific device associated with the identity, said determined identity oriented context, the determined availability rule, and the specific time; and providing data indicative of the true availability of the identity.

Clearly, Applicant claims (1) an identity oriented context application that represents a context of an identity based on an availability or state of the identity and (2) a device oriented context application that represents the context of the identity based on an availability of a device associated with the identity. Furthermore, Applicant claims (3) determining an availability rule associated with the identity, the availability rule governing when or how the identity is available, when or how the identity can be contacted by other identities, how or when the identity can be contacted based on the identity oriented context of the identity, and how or when the identity can be contacted based on the device oriented context of the identity; and (4) determining, for a specific time, a true availability of the identity based, at least in part, on the determined device oriented context for the specific device associated with the identity, said determined identity oriented context, the determined availability rule, and the specific time.

Applicant respectfully notes that claims 15 and 16 are worded similar to claim 1.

Applicant respectfully submits that the cited and relied upon Diacakis does not disclose or suggest, at least, the claimed (2) a device oriented context application that represents the context of the identity based on an availability of a device associated with the identity; (3) determining an availability rule associated with the identity, the availability rule governing when or how the identity is available, when or how the identity can be contacted by other identities, how or when the identity can be contacted based on the identity oriented context of the identity, and how or when the identity can be

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contacted based on the device oriented context of the identity; and (4) determining, for a specific time, a true availability of the identity based, at least in part, on the determined device oriented context for the specific device associated with the identity, said determined identity oriented context, the determined availability rule, and the specific time.

Contrary to rejection argued in the FOA, Diacakis discloses, at most, only an *identity oriented context application* (i.e., presence detection engine 18) that represents a context of <u>an individual based on an availability of the individual</u> and determining, by the identity oriented context application (i.e., presence detection engine 18), an identity oriented context for an individual, wherein the identity oriented context provides an availability status of the individual. Diacakis further discloses determining, for a specific time, an availability of the individual based on the identity oriented context for the individual (as determined by a "presence" of the individual provided by the presence detection engine 18 and the "availability" of the individual provided by the availability management engine 20) for the individual.

Applicant respectfully submits that the cited and relied upon Diacakis discloses a presence and availability management system that relies on an identity oriented context application. While the Final Office Action (FOA) states at pages 2 and 3 therein, "presence detection engine [is] interpreted as a device oriented context system since it determines user's presence based on particular devices, and availability management engine [is] interpreted as [an] identity oriented context system since it determines user's availability based on user's situation", it remains a <u>fact</u> that Diacakis instead actually discloses an identity oriented application or system. This is true since Diacakis is fundamentally concerned with determining the availability of an "individual". The disclosed individual refers to a user (i.e., a person). Diacakis discloses,

> [0026] <u>As used herein, the term "presence" is defined as the ability of an individual to access a particular communications network.</u> For example, if a person is near a landline telephone or wireless telephone that is switched on, that person is "present" on a telephone network, i.e., the person is able to use the telephone network to communicate with other people also on the network. Conversely, if a person is not near a landline telephone or wireless telephone, or the wireless telephone is switched off,

then that person is not present on a telephone network, and thus unable to communicate with others on the telephone network. Similarly, if a person uses an instant messaging (IM) application at a given point in time, the person is present on that instant messaging network.

[0027] In addition, as used herein the term "availability" is defined as the willingness of an individual who is present on one or more communications networks to be reached by one or more persons. Following the telephone network example above, if a person is near a landline or wireless telephone and has the intention or willingness to answer the phone when a particular person calls, the person is not only present but available on the telephone network. However, if the person is unwilling or unable to answer either phone when it rings, although present, the person is not available. (emphasis added)

Thus, Diacakis explicitly and specifically defines the meaning of "presence" and "availability" therein. Applicant notes that the defined "presence" and "availability" are each explicitly defined as relating to a presence of an individual and a willingness of that individual to be contacted. Therefore, there is no need to *interpret* the meaning of the terms "presence" and "availability" since Diacakis specifically defines the terms. In particular, to interpret the presence detection engine 18 to mean the same as Applicant's claimed device oriented application is contrary to the plain meaning of Diacakis and the explicit definition of terms provided therein.

Applicant submits that there is no disclosure in Diacakis of the disclosed "presence detection engine 18" being the same as (or even suggestive of) the claimed "device oriented context application" as argued in the FOA. Accordingly, Applicant respectfully submits that Diacakis fails to disclose interfacing an identity oriented context application *and* a device oriented context application.

Applicant further notes that Diacakis provides numerous examples of the presence detection engine 18 providing the individual's presence on different networks. Applicant incorporates the arguments of record related to Diacakis' extensive disclosed examples of the identity (i.e., individual) oriented application therein – the presence detection engine 18. Accordingly, Applicant will not repeat the citations to Diacakis at paragraphs, [0034], [0038], and [0040] – [0044].

Applicant further submits that Diacakis fails to disclose or suggest the claimed aspect of "determining, for a specific time, a true availability of the identity based, at least in part, on the determined device oriented context for the specific device associated with the identity, said determined identity oriented context, the determined availability rule, and the specific time". Again, Diacakis only provides an identity oriented context since Diacakis only determines the presence of an individual using presence detection engine 18 and the availability management engine 20.

Applicant notes that the FOA admits that the Diacakis disclosed "availability management engine" does not disclose the claimed "device oriented context application" by citing and relying on the disclosed "availability management engine" for disclosing the claimed "identity oriented context application".

Applicant submits that both the presence detection engine 18 and the availability management engine 20 disclosed by Diacakis relate to the availability of an individual. No availability of a device is disclosed as being determined by Diacakis. That is, Diacakis fails to disclose or even suggest the claimed device oriented context application.

Applicant respectfully submits that claims 1, 15, and 16 are not anticipated by Diacakis. Applicant further submits that claims 2 – 7 and 17 are patentable over Diacakis for depending from an allowable base claim.

Therefore, Applicant respectfully requests the reconsideration and withdrawal of the rejection of claims 1– 7 and 15 – 17 under 35 USC 102.

CONCLUSION

Accordingly, Applicants respectfully request allowance of the pending claims. If any issues remain, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is kindly invited to contact the undersigned via telephone at (203) 972-5985.

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